X-HC-78

(19)

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

मामला क्रमांक MAC No. 938 सन् 2007

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अंतिम आदेश

APPELLANT:

Shridevi Choubey, W/o C.S. Choubey, Aged about 42 years, R/o Maitri Vihar Colony, Dhamtari, Tahsil & District Dhamtari (C.G.)

-Versus-

RESPONDENTS:

1. Ajay Choubey, S/o L.L. Choubey, aged about 45 years, R/o Amapara Ward Dhamtari, Tahsil & District Dhamtari (C.G.)

2. Chandra Shekhar Choubey, S/o L.L. Choubey, Aged about 50 years, R/o Maitri Vihar Colony, Dhamtari, Tahsil & District Dhamtari (C.G.)

3. Senior Divisional Manager, New India Assurance Co. Ltd., G.E. Road, Bhilai, District Durg (C.G.)

(Miscellaneous Appeal under Section 173 of the Motor Vehicle Act)

Division Bench: -

Hon'ble Shri L.C. Bhadoo &

Hon'ble Shri Sunil Kumar Sinha, JJ.

17-8-2007:-

Shri Vivek Rathore, counsel for the appellant.

Oral order dictated on *Dais*.

L.C. BHADOO, J.

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आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश -2-	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अंतिम आदेश

This appeal has been preferred by the appellant under Section 173 of the M.V. Act, 1988 for enhancement of the compensation amount, being aggrieved by the award dated 19-3-2007 passed by the Motor Accident Claims Tribunal, Dhamtari, in claim case No.57/2006 whereby learned Tribunal has awarded compensation amount to the tune of Rs.46,500/- with interest @ 6% from the date of filing of the claim petition i.e. 8-5-2006.

There is delay of 26 days in filing this appeal.

We have heard learned counsel for the appellant on admission as well as condonation of delay. We have perused judgment of the Tribunal. It is admitted position that claimant Shridevi, aged about 42 years, is working as Professor of Government College, Dhamtari. She met with an accident in the intervening night of 21/22-12-2005 when she was returning along with her husband in newly purchased Maruti Wagon R from Bhilai to Dhamtari. The said vehicle was being driven by her brother-in-law Ajay Choubey. The said vehicle was being driven by the brother-in-law of the claimant in a rash and negligent manner. He dashed the said vehicle against a culvert at Potiyadeeh, as a result of which claimant sustained fracture of Tibia bone below knee. She also sustained injuries on head and lip. She received treatment in the Masihi Hospital Dhamtari. In order to join Tibia bone, a surgery was conducted and iron rod was inserted in the leg. She remained in the hospital up to 26-12-2005. She is working as professor. Her monthly income is Rs.23,145/-. She claimed total amount of Rs.7,30,000/-. One of the claims raised by the claimant was that on account of accident she has become permanent disable up to 30%, after consideration, same has not been found sustainable by the

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आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश -3-	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अंतिम आदेश

Tribunal on the ground that no doctor of Masihi Hospital has been produced who treated her. Only one Dr. Iqbal Parvez was examined. He has stated that bone has wrongly been joined, as a result of which the claimant has sustained 30% disability. Dr. Iqbal had never treated her. He only gave temporary treatment for 5 days & issued certificate Ex.P/32, whereas regular treatment and surgery was performed in the Masihi Hospital. No treating doctor of that hospital has been examined. Therefore, she has not been able to prove that on account of that she has become disable to discharge her duties as Professor. She is getting full salary. Therefore, on this count, we find that the finding of the Tribunal is not in any manner perverse or illegal to the extent of permanent disability allegedly sustained by the victim.

Against the medical expenses, all the bills produced by the claimant have been allowed & an amount of Rs.8500/- against medical claim has been allowed. For rest of the claims, claimant has failed to produce bills or prescriptions, therefore, remaining amount has been disallowed. This finding of the Tribunal is also based on the sound reasoning & there is no perversity in that. Apart from that, there was loss of one month income, she was not able to discharge her duties & remained on leave, therefore, Rs.20,000/- has also been awarded to the claimant. Against disability Rs.13,000/- has been awarded. Against pain & suffering Rs.5,000/- has been awarded, thereby in all Rs.46,500/- has been awarded considering the case of the claimant. The compensation amount awarded by the Tribunal, in our opinion, is not less in any manner. The amount awarded is just, reasonable and looking to the facts of the case, therefore, we are

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आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश -4-	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अंतिम आदेश
Barve	of the considered opinion that the appellant has not been able to make out a case for enhancement of the award. The appeal being devoid of merit, is liable to be dismissed and it is hereby dismissed on merits as well as delay **Sd/-** **L.C. Bhadoo** **Judge**	**Sd/-** **Sunil Kumar Sinha** **Judge**